



A REPORT  
TO THE  
MONTANA  
LEGISLATURE

PERFORMANCE AUDIT

# *State Grain Laboratory Operations and Future Viability*

*Department of Agriculture*

JANUARY 2008

LEGISLATIVE AUDIT  
DIVISION

07P-10

**LEGISLATIVE AUDIT  
COMMITTEE**

**REPRESENTATIVES**

BILL BECK  
BILL GLASER  
BETSY HANDS  
HAL JACOBSON, VICE CHAIR  
JOHN SINRUD  
BILL WILSON

**SENATORS**

JOE BALLYEAT, CHAIR  
GREG BARKUS  
STEVE GALLUS  
DAVE LEWIS  
LYNDA MOSS  
MITCH TROPILA

**AUDIT STAFF**

**PERFORMANCE**

DIEDRA MURRAY  
MIKE WINGARD

FRAUD HOTLINE  
HELP ELIMINATE FRAUD,  
WASTE, AND ABUSE IN STATE  
GOVERNMENT. CALL THE  
FRAUD HOTLINE AT:

(STATEWIDE)  
1-800-222-4446  
(IN HELENA)  
444-4446

**PERFORMANCE AUDITS**

Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy. The audit work is conducted in accordance with audit standards set forth by the United States Government Accountability Office.

Members of the performance audit staff hold degrees in disciplines appropriate to the audit process. Areas of expertise include business and public administration, mathematics, statistics, economics, political science, criminal justice, computer science, education, and biology.

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

Direct comments or inquiries to:  
Legislative Audit Division  
Room 160, State Capitol  
PO Box 201705  
Helena MT 59620-1705  
(406) 444-3122

Reports can be found in electronic format at:  
<http://leg.mt.gov/audit.htm>

# LEGISLATIVE AUDIT DIVISION

Scott A. Seacat, Legislative Auditor  
Tori Hunthausen,  
Chief Deputy Legislative Auditor



Deputy Legislative Auditors:  
James Gillett  
Angie Grove

January 2008

The Legislative Audit Committee  
of the Montana State Legislature:

This is our performance audit of the State Grain Laboratory (SGL) managed by the Agricultural Development Division at the Department of Agriculture. This report provides the Legislature information about SGL operations and future viability. Findings and recommendations address SGL financial stability and management controls, and enforcement of statutory provisions. A written response from the Department of Agriculture is included at the end of the report.

We wish to express our appreciation to the Department of Agriculture and SGL personnel for their cooperation and assistance during the audit.

Respectfully submitted,

*/s/ Tori Hunthausen*

Tori Hunthausen  
Chief Deputy Legislative Auditor

## TABLE OF CONTENTS

Figures and Tables .....	iii
Appointed and Administrative Officials .....	iv
Report Summary .....	S-1
<b>CHAPTER I – INTRODUCTION .....</b>	<b>1</b>
Introduction .....	1
Audit Objectives .....	1
Audit Scope and Methodologies .....	1
Report Organization .....	1
<b>CHAPTER II – BACKGROUND.....</b>	<b>3</b>
Introduction .....	3
Agriculture is One of Montana’s Top Industries .....	3
Grain Inspections Are Important in Determining Quality and Subsequent Value of Grain .....	3
Producers and Elevator Operators Use Grain Lab Test Results When Marketing and Pricing Grain .....	4
Differences Between Licensed and Unlicensed Grain Labs .....	5
FGIS Licenses Personnel and Conducts Audits of Licensed Grain Labs .....	5
Only Certificates from a Licensed Grain Lab are Final and Binding .....	6
Inspection Fees Vary Depending on the Sample Submitted and Tests Requested .....	6
SGL Organization.....	6
SGL Funding .....	7
<b>CHAPTER III – FINANCIAL STABILITY AND VIABILITY OF SGL .....</b>	<b>9</b>
Introduction .....	9
Several Factors Including Both Environmental and Manmade Have Impacted SGL Fee Revenues.....	9
Grain Market Prices Affect Producer Use of SGL .....	10
Establishment of a Private Sector Lab Has Also Impacted SGL Revenues .....	11
SGL Inspection Fee Rates Are Somewhat Controlled By Both Federal Regulation and Competition’s Rates.....	11
SGL Inspection Fee Rates and Marketing of Services were Recently Modified to Address Funding Issues .....	12
Unanticipated Expenditures and Increasing Fixed Costs Limit SGL Budgetary Flexibility.....	13
Fixed Cost Increases Also Present Challenges to SGL’s Financial Stability.....	14
Financial Assistance was Obtained from Other Sources to Address Impacts of the Cyclical Nature of SGL Revenues.....	14
Department Officials Sought Solutions to Keep SGL Operating .....	16
Producers and Other Stakeholders Believe SGL is an Important Resource for Montana’s Grain Industry .....	16
Impacts of Potential SGL Closure .....	16
Overall Conclusion Regarding SGL Financial Stability and Viability .....	17

<b>CHAPTER IV – MANAGEMENT CONTROLS AT SGL .....</b>	<b>19</b>
Introduction .....	19
Survey Work Identified the Majority of Producers Are Satisfied with SGL’s Services ..	19
SGL and the Department of Agriculture Should Formalize an Overall Strategic Plan...	19
Additional Management Controls are Needed .....	20
Schedules are needed for Equipment and Capital Improvements .....	21
SGL is Implementing Policies and Procedures Through a Quality Management System .....	21
SGL Could Improve Services by Implementing an Efficient and Secure Billing and Recording System.....	21
SGL Accurately Bills Producers and Elevator Operators, but Timeliness Cannot be Determined .....	22
Specific Grain Lab Software is being Considered by SGL.....	22
New Software Would Aid SGL in Providing Inspection Results to its Customers .	23
SGL Needs to Implement Staffing Controls .....	23
Evaluating Management Information for Decision-Making Purposes .....	24
<b>CHAPTER V – STATUTORY MANDATES FOR ELEVATOR OPERATORS.....</b>	<b>27</b>
Introduction .....	27
Statute Related to Elevator Operator Compliance.....	27
Statute Requirements Are Not Being Formally Enforced.....	27
Additional Auditor Visits to Elevators Determined Continued Elevator Operator Noncompliance .....	28
Survey Work Also Suggests Noncompliance.....	29
Overall Conclusion Regarding Statute Enforcement .....	30
<b>DEPARTMENT RESPONSE .....</b>	<b>A-1</b>
Department of Agriculture .....	A-3

FIGURES AND TABLES

Figures

Figure 1        Revenues and Number of Samples by Fiscal Year ..... 10

Figure 2        Grain Elevator Visits ..... 28

Tables

Table 1        SGL Financial Data by Fiscal Year..... 7

---

## APPOINTED AND ADMINISTRATIVE OFFICIALS

**Department of Agriculture**

Ron de Yong, Director

Joel Clairmont, Deputy Director and Administrator,  
Agricultural Development Division

Kathy Seacat, Administrator, Central Services Division

Craig Essebaggers, Chief, State Grain Laboratory Bureau

## REPORT SUMMARY

### State Grain Laboratory Operations and Future Viability

The State Grain Laboratory (SGL) has struggled to financially sustain itself and without alternative or supplemental funding and management controls, will not have a viable future.

### Audit Findings

Quality plays a significant factor in the marketability and selling price of grain. SGL is the only licensed grain lab in Montana and tests grain samples to determine quality. The Department of Agriculture has chosen to require SGL to be primarily self-sustaining from revenue derived from inspection fees. However, during our audit, we identified factors that make it difficult for SGL to rely solely on inspection fees to fund its operations.

Factors affecting revenues, but outside the control of SGL, include drought and subsequent low production years, market prices, and competition from other grain labs. SGL has both increased and decreased fees for its services; however, these changes have not significantly affected its financial stability. Additionally, unanticipated expenditures including termination expenditures, statutory pay raises, rising utility costs, and equipment purchases have a significant impact on SGL's financial position.

In recent years, SGL obtained financial assistance from intra-departmental programs

#### SGL Financial Data by Fiscal Year

Fiscal Year	Revenue (including grant assistance)	Expenditures	Revenue Over Expenditures
1998	\$413,662	\$430,933	(\$17,271)
1999	\$427,429	\$431,379	(\$3,950)
2000	\$466,533	\$451,104	\$15,429
2001	\$367,939	\$414,327	(\$46,388)
2002	\$296,125	\$279,105	\$17,020
2003	\$442,971	\$380,520	\$62,451
2004	\$394,969	\$407,699	(\$12,730)
2005	\$411,470	\$377,902	\$33,568
2006	\$461,695	\$486,656	(\$24,961)
2007	\$460,533	\$449,704	\$10,829

Source: Compiled by the Legislative Audit Division from Department of Agriculture records and SABHRS data.

and Montana Wheat and Barley Committee. However, these grant moneys cannot be considered stable funding sources and have not provided SGL a consistent revenue stream sufficient to support ongoing expenditures (see SGL financial data table). Since the grain industry appears to view SGL as an important resource, its long-term viability is dependent on a stable funding source.

Until recently, it appears SGL has focused on basic operations. Due to competition, number of samples decreasing, anticipated turnover



of highly experienced personnel, and financial difficulties, additional management controls are needed. These controls should include a strategic plan, equipment and capital improvement schedules, written policies and procedures, a reliable automated system, staffing controls, and management information. These management controls would enhance the effectiveness and efficiency of SGL.

Currently, statutory provisions require grain elevator operators post placards listing SGL's sampling and inspection fees and the elevator operator's anticipated shipping and handling fees. Elevator operators must provide producers with written agreements authorizing them to state a preference of grading facility. Through survey work and visits to elevators, we identified elevator operators are not complying with these provisions in section 80-4-711, MCA. In addition, the department has not coordinated an effort between its various programs to enforce these statutory provisions.

## **Audit Recommendations**

Our recommendations address the need for an alternative or supplemental funding source if SGL is to be viable in the future. To address improvements in SGL's efficiency and effectiveness, we recommend the Department of Agriculture implement comprehensive management controls at SGL. We also recommend the department increase enforcement of section 80-4-711, MCA. By obtaining a stable funding source, implementing management controls, and enforcing statutory provisions, improvements could be made in SGL's operations.

# Chapter I – Introduction

## **Introduction**

The Legislative Audit Committee requested a performance audit of the State Grain Laboratory (SGL). To assess whether an audit was reasonable, we conducted risk assessment work and determined an audit should be conducted. This report provides information resulting from our program examination.

SGL is located in Great Falls and opened in 1921. It is one of four bureaus within the Agricultural Development Division of the Montana Department of Agriculture. SGL charges fees for inspection and sampling services provided to the grain industry, which includes grain producers and operators of grain elevators. These fees are the primary revenue source for SGL.

## **Audit Objectives**

We developed three audit objectives for examining SGL:

- ♦ Determine the financial stability and viability of SGL.
- ♦ Determine whether SGL provides farmers, elevator operators, and those involved in the grain industry, with accurate billing, cost effectiveness, and efficient services.
- ♦ Determine whether SGL has effective management controls.

## **Audit Scope and Methodologies**

The audit scope focused on SGL operations and activities. To accomplish our audit objectives we completed the following methodologies:

- ♦ Reviewed SGL revenues and expenditures for the past ten years.
- ♦ Interviewed SGL management and personnel.
- ♦ Interviewed Department of Agriculture management and personnel.
- ♦ Interviewed 13 grain elevator operators, 3 farm organization representatives, and 6 grain producers.
- ♦ Surveyed 859 grain producers in Montana and received responses back from 213.
- ♦ Interviewed representatives from 4 grain labs in other states.

## **Report Organization**

The remainder of this report is organized into four chapters. Chapter II offers background information about SGL. Chapter III provides information and recommendations related to SGL's financial stability and viability. Chapter IV discusses and makes recommendations related to SGL's management controls. Chapter V presents information and recommendations related to statutory responsibilities associated with SGL.



## Chapter II – Background

### **Introduction**

This chapter provides information related to grain laboratory functions, differences between types of grain labs, and services provided by the State Grain Laboratory (SGL).

### **Agriculture is One of Montana's Top Industries**

Montana's Constitution speaks to the importance of agriculture in Article XII, Section 1, stating the legislature shall provide for a Department of Agriculture and enact laws and provide appropriations to protect, enhance, and develop all agriculture. Agriculture, which includes crop production, is one of Montana's four largest industries. According to the United States Department of Agriculture's Economic Research Service, agriculture contributes over \$2 billion dollars to the state's economy annually. In 2006, Montana wheat had an export value of \$452 million dollars. Wheat is the principal crop produced in Montana and the majority is shipped by rail and exported out of Pacific Northwest ports. All grain exported out of the United States must be inspected by a lab, such as SGL.

### **Grain Inspections Are Important in Determining Quality and Subsequent Value of Grain**

Whether grain is harvested and binned for sale at a later date, delivered to an elevator for a relatively immediate sale, or enters the export market, an inspection conducted by a grain lab is critical in determining grain quality. Quality plays a significant factor in the marketability and price of grain. Grain labs obtain samples of grain for inspection in two ways: producers or elevator operators submit samples to the lab, or lab employees travel to obtain samples from a bin, truck, or rail car. Tests conducted during the inspection process include, but are not limited to, grade determinations, protein determinations, falling numbers, vomitoxin tests, and malting barley germination. A grader must complete grade determinations by hand and visual inspection; for other tests, such as falling numbers and protein, the grader uses equipment to analyze a portion of a sample. Descriptions of these tests are listed in the following sections:

***Grade determination*** – an inspector manually analyzes the sample according to quality factors outlined in U.S. grain standards and certifies the applicable numeric grade designation. Numeric grades vary from 1 to 5, with 1 being the highest quality of grain. The grain grade helps ensure the producer or elevator receives appropriate value for their grain.

**Protein determination** – the protein content of grain has a greater influence on overall quality than any other single factor. Protein, especially in wheat, is important since producers receive either premiums or discounts based on protein content. For example, on July 3, 2006, the market price for 10 percent protein hard red winter wheat, using the Pacific Northwest market prices, was \$5.55 per bushel and the market price for 13 percent protein was \$5.94 per bushel. The result is a protein margin of 39 cents. If the average yield is 30 bushels per acre, on a 100 acre field, the difference between what the elevator operator pays a producer for 10 or 13 percent protein is \$1,170.

**Falling numbers** – falling numbers give an indication of the amount of sprout damage. Sprouting can affect food made from wheat in the following ways: mixing strength, loaf volume of bread, and shelf life. The falling numbers test is represented in seconds. A falling number value of 350 seconds or longer indicates low enzyme activity and very sound wheat.

**Vomitoxin** - vomitoxin is a toxin which can affect flavors in foods and baking quality. Vomitoxin can also affect the health of animals if they consume contaminated grain. A chemical analysis is conducted to determine the presence and amount of vomitoxin.

**Malt barley determination** – barley is classified as either malt or feed barley. Tests are completed to determine if barley is of malt quality. Only germinating barley may become malt barley, therefore, tests are run to determine the non-germination period. Barley with a shorter non-germination period is better for malting purposes.

## **Producers and Elevator Operators Use Grain Lab Test Results When Marketing and Pricing Grain**

Grain elevator operators purchase grain from producers, have samples inspected to determine grade and quality, and maintain records for producers and companies. Generally, operators will not settle on price with producers until they receive the results of the grain tests.

Once a Montana elevator operator purchases grain from a producer, the operator usually ships the grain to the west coast. When shipping to the west coast, the operator requests a grain lab sample and tests the quality of the grain shipment. When a test is performed prior to shipment, costly transportation delays, conflicts relative to product quality, and costs associated with rejected grain can be avoided. Both producers and elevator operators receive certificates with test results and are subsequently billed. The following sections discuss the difference between a licensed and unlicensed grain lab.

## **Differences Between Licensed and Unlicensed Grain Labs**

USDA's Federal Grain Inspection Service (FGIS) provides inspection services on grains, oilseeds, and processed and graded commodities, and licenses grain labs. Licensed grain labs, more commonly referred to as "official" labs, can be state or privately operated. These labs are required to follow stringent rules and regulations set forth by FGIS. Requirements of an official grain lab include:

- ♦ Have adequate facilities and qualified personnel for performance of official inspection functions.
- ♦ Provide periodic rotation of official inspection personnel among the grain elevators, warehouses, or other storage or handling facilities to preserve the integrity of the official inspection service.
- ♦ Meet training requirements and personnel standards.
- ♦ Charge official inspection fees that are not discriminatory or unreasonable.
- ♦ Use any moneys collected only for maintenance of the official inspection operation.
- ♦ Maintain complete and accurate records of its organization, staffing, official activities, and fiscal operations, and other required records.

If it is determined an agency failed to meet one or more of the criteria listed above, after opportunity for a hearing, FGIS may revoke a license.

Unlicensed labs are privately owned and do not have to meet the strict rules and regulations of FGIS, but rather their own internal policies and procedures. Currently, Montana has two grain labs located in Great Falls, one is licensed (SGL) and the other is unlicensed.

## **FGIS Licenses Personnel and Conducts Audits of Licensed Grain Labs**

Every licensed grain lab, including SGL, operates under uniform, official U.S. grain standards and procedures. FGIS licenses all personnel who perform official grain inspection and weighing services, and oversees the system at large. To receive a FGIS license, samplers and technicians must complete a United States Grain Standards Act (USGSA) and Agricultural Marketing Act (AMA) exam. Licensing requirements vary based on whether the commodity is under USGSA or AMA. Commodities under USGSA include barley, canola, corn, flaxseed, oats, rye, sorghum, soybeans, sunflower seed, triticale, wheat, and mixed grain. Commodities under AMA include rice, beans, peas, lentils, hops, and processed grain products.

Equipment at licensed labs must meet federal standards. Equipment is tested and remains in service only if it meets federal standards. FGIS also conducts compliance

reviews to determine whether licensed labs are correctly and uniformly carrying out official procedures, and meeting established criteria. This means, while the official system is diverse, its results are not, and every customer receives consistent, accurate service regardless of location. SGL has consistently been in compliance with most FGIS requirements and received satisfactory reviews. The last FGIS audit of SGL was conducted in July 2007; SGL met the requirements for FGIS licensure.

### **Only Certificates from a Licensed Grain Lab are Final and Binding**

Both licensed and unlicensed labs inspect samples and provide producers and elevator operators with certificates listing the results of tests conducted on their grain. Labs subsequently bill producers and elevator operators for services. According to section 80-4-711, MCA, when disputes over grain exist, only certificates inspected by SGL are final and binding.

### **Inspection Fees Vary Depending on the Sample Submitted and Tests Requested**

Wheat and barley samples make up the majority of SGL's samples. However, the number of pea, bean, and lentil samples has increased significantly in the past five years. On a pea, bean, or lentil sample, a producer pays \$11.00 for a grade determination. The unlicensed lab in Montana also tests these commodities. In fiscal year 2007, SGL completed 17,974 submitted grade determinations and 18,424 protein determinations, which cost the customer \$8.00 and \$5.50 per sample respectively. SGL sends producers and elevator operators monthly bills for its services.

More details regarding number of samples inspected by SGL and the lab's associated financial activity are discussed in Chapter III. The next section provides historical information about SGL organization and funding sources.

### **SGL Organization**

Currently, SGL employs six full-time staff, down from a high of 13 in fiscal year 1995. Full-time staff include the Bureau Chief, Administrative Assistant, three Inspectors, and a Protein Analyst. All inspectors and the analyst have current FGIS licenses. SGL also has four temporary employees who assist inspectors by preparing samples for grade and protein determinations. One of these employees also assists the administrative assistant with certificates and billing. Temporary employees primarily work during crop harvest and often they and the permanent employees work significant overtime between July and September. During slower portions of the year (January-May), SGL reduces or eliminates temporary employees' hours due to funding issues.

## **SGL Funding**

The majority of SGL expenditures are personal services. During the past five years, SGL expended 72 to 86 percent of its budget on salaries, hourly wages, and benefits. On average, SGL expends \$326,000 of its \$397,000 in total yearly expenditures on personal services. When reviewing SGL's financial position, it is clear SGL struggles to maintain a stable revenue stream to cover all expenditures. The following table provides SGL financial data.

**Table 1**  
**SGL Financial Data by Fiscal Year**

<b>Fiscal Year</b>	<b>Revenue</b>	<b>Grant Assistance</b>	<b>Total Revenue</b>	<b>Total Expenditures</b>	<b>Total Revenue Over Expenditures</b>
1998	\$413,662		\$413,662	\$430,933	(\$17,271)
1999	\$427,429		\$427,429	\$431,379	(\$3,950)
2000	\$466,533		\$466,533	\$451,104	\$15,429
2001	\$367,939		\$367,939	\$414,327	(\$46,388)
2002	\$216,125	\$80,000	\$296,125	\$279,105	\$17,020
2003	\$392,971	\$50,000	\$442,971	\$380,520	\$62,451
2004	\$312,403	\$82,566	\$394,969	\$407,699	(\$12,730)
2005	\$303,904	\$107,566	\$411,470	\$377,902	\$33,568
2006	\$352,020	\$109,675	\$461,695	\$486,656	(\$24,961)
2007	\$352,371	\$108,162	\$460,533	\$449,704	\$10,829

**Source:** Compiled by the Legislative Audit Division from Department of Agriculture records and SABHRS data.

The following chapter further discusses SGL's financial position and future viability.





## Chapter III – Financial Stability and Viability of SGL

### **Introduction**

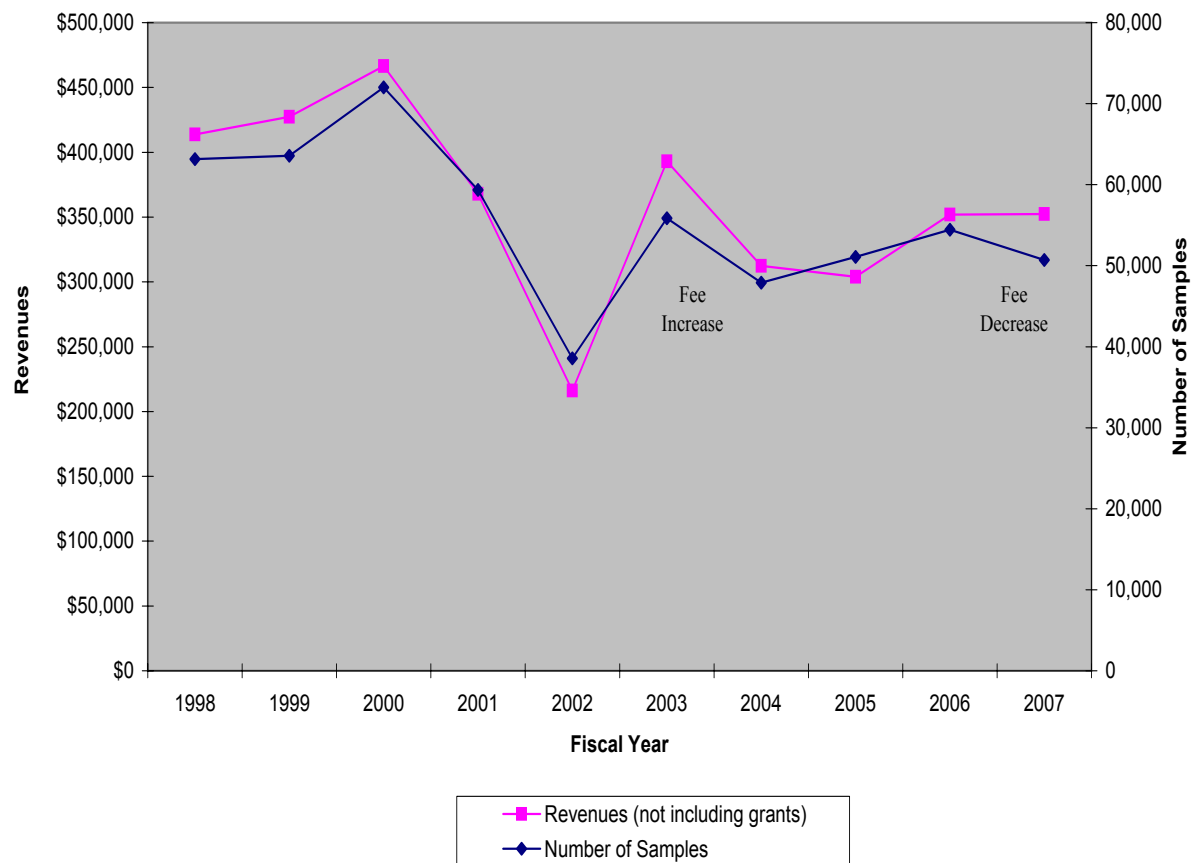
Over the course of the past several years, the State Grain Laboratory (SGL) has struggled to financially sustain itself. The Department of Agriculture has historically chosen to require SGL to primarily be self-sustaining from revenue derived from inspection fees. However, during our review of statute related to SGL, it is our opinion SGL is not by law required to be self-sustaining. As part of our audit objectives and at the request of Department of Agriculture officials, we examined SGL's financial stability, as well as attempted to gauge the perceived value of SGL to the state's agricultural industry.

In this chapter we identify factors demonstrating why it is, and has been, difficult for SGL to rely solely on inspection fees to fund its operations. At the end of the chapter, we provide a summary illustrating the cumulative effect of our findings and make a recommendation suggesting the Department of Agriculture and legislature should consider additional or alternative funding if they want SGL to have a viable future.

### **Several Factors Including Both Environmental and Manmade Have Impacted SGL Fee Revenues**

Two significant environmental factors affecting SGL revenues outside control of SGL and department are interrelated: drought and subsequent low production years. The following figure depicts revenues (not including grant assistance) and number of samples SGL inspected in the past ten fiscal years.

**Figure 1**  
**Revenues and Number of Samples by Fiscal Year**



Source: Compiled by the Legislative Audit Division.

As shown in the figure, a significant difference in total annual revenues can occur. For example, SGL had revenues of approximately \$467,000 in fiscal year 2000, while in fiscal year 2002 it only had revenues of \$216,000, a difference of approximately \$250,000. When this variability was examined, we noted it coincided with data from the Montana Natural Resource Information System showing calendar year 2001 as one of Montana's worst drought and subsequently low crop production years. Since fiscal year 2002 data would show calendar year 2001 harvest results, the number of samples SGL inspected was down approximately 20,000 samples. Fee changes and impacts are discussed on page 12.

## Grain Market Prices Affect Producer Use of SGL

Manmade factors also impact SGL revenues. Based on survey responses and interviews, we noted three of five producers indicated they use SGL more often when protein

margins on grain increase. Protein margins are discussed on page 4. We determined a relationship exists between protein margins and SGL revenues. This relationship is due to the difference in profit a producer can realize when grain market prices are substantively higher for higher protein grains. Based on our analysis, producers tend to use SGL more in years when there are wide protein margins. However, SGL has neither control over grain quality nor the variability in number of resultant samples inspected when market prices vary significantly for grain quality.

## **Establishment of a Private Sector Lab Has Also Impacted SGL Revenues**

In fiscal year 1996, SGL's average number of submitted samples decreased by approximately 5,000. This coincided with the opening of a private sector grain lab. While not a licensed lab, interviews, survey results, and our analysis of SGL revenues suggest producers and elevator operators have been using the private sector lab to the detriment of SGL. At current inspection fee prices for a typical grain inspection, the lower number of samples inspected represents unrealized fee revenue of approximately \$70,000.

Interviews and survey results indicate producers' reasons for changing to the private sector lab range from lower inspection fees, to perceived timeliness of inspection results, to elevator operators solely making the determination of where samples are to be inspected instead of producers. It is apparent competition from another grain lab has impacted SGL's fee revenues.

---

### **CONCLUSION**

***SGL has limited ability to control its primary revenue stream.***

*SGL's primary revenue source are proceeds from samples inspected. Environmental conditions, crop quality, market prices, and competition from a private sector lab are all factors outside the control of SGL, but which have significant effect on its primary revenue stream. While SGL has some ability to raise inspection fee rates, there are limitations to this alternative, as discussed in the next section.*

---

## **SGL Inspection Fee Rates Are Somewhat Controlled By Both Federal Regulation and Competition's Rates**

Since SGL cannot fully control how many samples come into the lab, we examined the feasibility of raising its inspection fee rates. The federal agency overseeing official grain labs such as SGL, the Federal Grain Inspection Service (FGIS), has various "reasonableness" requirements relative to inspection fee rates and any change to those

rates. Additionally, if FGIS determines the request and supporting data do not justify the new or revised fee, approval of the request will be denied.

When reviewing SGL's fee schedule and comparing it to other FGIS licensed labs, as well as against the fees of Montana's unlicensed private sector lab, we found SGL is charging comparable fees. That being discerned, it is our opinion SGL would have difficulty, from both a federal requirement and business standpoint, substantively changing its rates to address the variability of the number of samples inspected from year to year.

### **SGL Inspection Fee Rates and Marketing of Services were Recently Modified to Address Funding Issues**

The Department of Agriculture and SGL made two recent changes to inspection fee rates to address SGL's financial stability. In fiscal year 2003 SGL, raised fees; however, in reviewing financial data we found the fee increase did not positively impact overall revenues. Figure 1 on page 10 shows the fee changes. To again attempt to make a positive impact in SGL revenues, inspection fees were lowered in fiscal year 2007. Department officials believed the lower inspection fees charged by the private sector lab were influencing some producers' lab choices and thus made a decision to lower its fees. To date, the data is not conclusive on its overall impact. For example, in fiscal year 2007 number of samples decreased while revenues increased due to the type of sampling being performed.

In conjunction with lower inspection fees, the department is more actively marketing SGL by establishing a goal of improving customer service. SGL's Bureau Chief has been traveling throughout the state and talking with elevator operators and producers about SGL services and the lower inspection fees. When we asked producers in our survey if they knew the current SGL fee for a submitted wheat grade and protein determination, 81 percent of respondents did not know the current fee. Additionally, out of 25 respondents who stated they knew the current fee, only two listed the correct amount. Subsequent to our survey, SGL sent brochures to producers informing them of the services SGL provides and its current fee schedule.

---

#### **CONCLUSION**

***SGL has made efforts to address revenue issues through fee changes but its overall effect is speculative.***

*To increase revenues, SGL has both increased and decreased inspection fee rates. It is speculative whether SGL's current marketing efforts, along with the decrease in fees, will substantively increase revenues. If the decrease in fees does not increase the number of samples submitted and no other solutions are implemented, SGL's funding issues will continue.*

---

## **Unanticipated Expenditures and Increasing Fixed Costs**

### **Limit SGL Budgetary Flexibility**

Similar to revenues, SGL expenditures fluctuate from year to year. In the past ten years SGL expenditures varied as much as \$200,000. When reviewing the detail behind SGL expenditures, we identified some unanticipated expenditures as well as examples of cost savings resulting from some factor associated with operations. Due to the small size of SGL operations in terms of both budget and personnel, we outlined some of these factors by fiscal year to illustrate their relative impact on operations.

#### Fiscal Year 2004:

- ♦ Equipment purchases totaled \$11,000.

#### Fiscal Year 2005:

- ♦ The Bureau Chief position became vacant in September and remained vacant for 21 months. As a result, there were personal services savings for a portion of this time period.

#### Fiscal Year 2006:

- ♦ Operating expenditures for repair and maintenance increased by almost \$30,000. Improvements were made to SGL including: new windows, swamp coolers, rain gutters, and interior lighting.
- ♦ Operating expenditures for supplies and materials increased \$10,000. This appears to be due to rising vehicle fuel, and office and lab supply costs.
- ♦ A long-time SGL employee retired, and \$21,000 in termination expenses had to be paid.
- ♦ The current SGL Bureau Chief was hired which increased personal services expenditures.
- ♦ SGL purchased a pickup for \$28,950.

#### Fiscal Year 2007:

- ♦ Travel expenditures for conferences increased \$3,000.
- ♦ Overtime increased to nearly \$16,000, a \$13,000 increase from the previous year.
- ♦ SGL expenditures for vehicle fuel, office and lab supplies increased \$10,000.

In November 2007, the SGL Protein Analyst retired and there are termination expenses to be paid. Additionally, a full-time Inspector is considering retirement within the next calendar year. If this Inspector retires when planned, the projected expenses will be approximately \$22,000. Temporary employees who have received at least some training are the most logical replacement candidates for these full-time positions when they become vacant. However, once harvest is over, temporary employees' hours are reduced or they are laid off and they may or may not return for the next harvest season.

Additionally, while every state agency faces expenditures associated with employees leaving or retiring, when the primary revenue source is inspection fee proceeds that vary yearly, the ability to hire and train a replacement is tempered by availability of those funds.

### **Fixed Cost Increases Also Present Challenges to SGL's Financial Stability**

Over the past few years, SGL also had growing expenditures for personal services resulting from salary increases approved by the legislature. These increases include 3.5 percent in fiscal year 2006, 4 percent in fiscal year 2007, and 3 percent in both fiscal years 2008 and 2009. From fiscal year 2004 to fiscal year 2007, based on the current full-time positions, SGL personal services expenditures increased by \$34,500. While mandated salary increases are accompanied by appropriation authority in the pay plan bill, revenue still needs to be generated to spend against the appropriation. Using SGL's current inspection fee rate of \$13.50 for a grade and protein test on wheat, SGL would have had to receive an additional 2,500 samples for testing to counteract increased personal services costs.

In addition to potentially having to rely on proceeds from an increase in samples to fund mandated salary increases, general utility rates for gas, electric, sewer and water have also been rising. In fiscal year 2004-06, SGL's utilities increased by \$500 per year. While recent energy conservation projects by SGL have decreased energy consumption, overall utility rates continue to increase.

---

#### **CONCLUSION**

***Increases in personal services and fixed costs adversely affect SGL's financial stability.***

*Expenditures such as statutory pay raises, rising utility costs, and unanticipated obligations such as equipment breakdowns can negatively impact SGL operations given the limited differential in revenues versus expenditures.*

---

### **Financial Assistance was Obtained from Other Sources to Address Impacts of the Cyclical Nature of SGL Revenues**

The Montana Wheat and Barley Committee (MWBC) is an organization funded by wheat and barley growers in Montana. MWBC markets Montana wheat and barley crops and funds research programs through grants. MWBC is attached to the Montana Department of Agriculture for administrative purposes.

MWBC, by virtue of state statute, is supported exclusively by producer check-offs. Check-off funds are moneys producers automatically contribute from the sale of their wheat and/or barley. The current check-off assessment for producers is 12.5 mills per bushel of wheat (\$.0125) and 20 mills (\$.020) per hundredweight of barley. To put this in context, for a 300 bushel truckload of wheat a producer sells, \$3.75 of sale proceeds is automatically diverted by elevator operators and sent to the Department of Agriculture where it ultimately goes into a designated account for MWBC. In fiscal year 2007, MWBC received a total of \$2,271,547 from producer check-off funds.

Due to SGL's role in assessing the quality of various grown commodities such as wheat and barley and MWBC's function of marketing Montana's grains, there is a relationship between their functions. As part of this relationship, SGL received financial assistance in the form of grants from MWBC for equipment purchases and other expenditures. Additionally, MWBC paid SGL's indirect costs for the past four fiscal years. Indirect costs are those expenditures SGL incurs for services such as legal assistance and accounting received from the department. SGL received \$280,000 in MWBC grants and \$207,969 in indirect cost payments from MWBC in the past six years. The committee's grants to SGL are, and have been critical supplements to its operations.

In addition to MWBC financial assistance, SGL also obtained grant moneys from an intra-departmental program known as Growth Through Agriculture and from a portion of the department's Homeland Security Grant. The intra-departmental and Homeland Security grants provided over \$67,000 of financial assistance to SGL. SGL used the Homeland Security funds to purchase new testing equipment, a printer, and updated computer software and workstations.

Even though SGL received financial assistance for several years ranging from \$80,000 in fiscal year 2002 to \$110,000 in fiscal year 2006, the grants noted above do not provide a consistent revenue stream sufficient to support ongoing SGL expenditures. Table 1 on page 7 shows the combined revenues from inspections and financial assistance. To address the shortfall in addition to reducing employee hours and reducing other expenditures, SGL has had to withdraw funds from the accumulated fund balance. The funds were generated from fiscal years when SGL did have revenues larger than expenditures. However, SGL's accumulated fund balance runs between \$50,000 and \$150,000, which is less than one year of SGL expenditures.

---

### **CONCLUSION**

***SGL is not a self-sustaining operation and needs financial assistance to maintain its viability.***

*By virtue of its own historical determination, SGL has attempted to function as a self-sustaining operation. However, without financial assistance from outside sources, it does not appear SGL's current or future viability is assured.*

---



## **Department Officials Sought Solutions to Keep SGL Operating**

The Director of the Department of Agriculture in 2002 appointed a task force of stakeholders to review options and potential funding solutions relative to SGL. The task force recommended SGL remain open and function as a part of the department. The task force further stated SGL should receive financial assistance from the MWBC, the financial assistance was to be a “safety net” to keep SGL financially viable in years when expenditures exceed revenues.

Legislation was passed in 2003 to increase check-off funds allocated to MWBC. While no formal documentation exists stating these increases were designated for SGL, various stakeholders believe the increase was to establish a more stable funding source when expenditures exceeded revenues. MWBC has granted funds to SGL, however, there is no provision in statute requiring any of the check-off funds presently appropriated to MWBC be granted or otherwise directed to SGL. It is up to the MWBC Board of Directors to determine whether to approve SGL’s grant requests. Thus, it is our determination the Department of Agriculture cannot view grant proceeds SGL has been receiving from MWBC as a stable funding source for the future.

## **Producers and Other Stakeholders Believe SGL is an Important Resource for Montana’s Grain Industry**

Our survey of producers found a majority view SGL as an important component of the grain industry. Survey results indicated producers view the role of SGL as being an independent, fair, and accurate lab where they can submit their grain samples for an impartial analysis. In addition, agricultural organizations appear to recognize SGL as an important option in grain inspections and grain marketing. Members of the grain industry believe foreign grain buyers are concerned with pesticide tolerance and toxin issues, and further believe SGL will continue to grow in importance due to its licensed inspection services. When foreign buyers visit Montana, they tour SGL and see first-hand how grain is examined. Grain industry members stated this tour helps put foreign buyers at ease regarding Montana commodities.

## **Impacts of Potential SGL Closure**

At present, state law mandates the Department of Agriculture maintain an official protein testing laboratory as designated by the United States Grain Standards Act. However, if SGL were to close, according to the U.S. Department of Agriculture Officer-In-Charge in Moscow, Idaho, FGIS would be required to provide inspection services to Montana either by conducting the services themselves or soliciting bids for a different official lab for Montana. If SGL closed, producers would likely be required to

send submitted samples out of state for an undetermined period of time if they wanted official submitted sample results. Additionally, if the customer wanted both an official sample and inspection conducted, FGIS would need to send a representative from out of state at the requestor's expense. This requirement would likely increase sampling and inspection service costs for Montana producers and elevator operators.

---

### **CONCLUSION**

#### ***SGL is considered an important asset for Montana's Grain Industry.***

*The statutorily mandated SGL is a licensed laboratory that provides official inspection services for agricultural products grown in Montana. The stakeholders, which include producers and various agricultural organizations, believe SGL provides a valuable service. This belief is validated by state law mandating there be a licensed SGL and the willingness of the Montana Wheat and Barley Committee to grant producer check-off funds to help maintain SGL. However, the Montana Wheat and Barley Committee grants cannot be viewed as a stable funding source for the future.*

---

## **Overall Conclusion Regarding SGL Financial Stability and Viability**

Various revenue and expenditure factors dictate when and whether SGL will have the funds to meet its basic financial obligations. Some of these factors are environmental (drought) and some are manmade (rising fixed costs). For reasons noted in the various conclusions in this chapter, funding in its present form will only allow SGL to "limp along." Additionally, circumstances such as the retirement of highly experienced staff may actually threaten its official standing with the associated federal agency, FGIS. As stated earlier, Montana's Constitution speaks to the importance of agriculture and further states the legislature shall provide appropriations to protect, enhance, and develop all agriculture. Assuming the legislature accepts what appears to be the stakeholders' perception of SGL's value to agriculture and Montana, SGL's long-term viability is dependent on the addition of a relatively stable funding source. To obtain this type of funding, the Department of Agriculture will need legislative approval. Possible options for relatively stable funding sources include:

- ♦ Designate a percentage of proceeds from producer sale of agricultural commodities that must be inspected and graded directly to SGL. This would be similar to the wheat and barley check-off funds going to MWBC, but could be expanded to all commodities inspected by SGL.
- ♦ Seek a General Fund or statutory appropriation for SGL. Based on the importance of agriculture to Montana's overall economy, an argument could

be made that the inspection services provided by SGL are beneficial to the public as a whole.

- ♦ Some combination of General Fund appropriation and check-off fund proceeds.

---

**RECOMMENDATION #1**

*We recommend the Department of Agriculture seek legislation to establish additional or alternative funding sources for the State Grain Lab to maintain its viability.*

---

In addition to examining the financial viability of SGL, we also reviewed how services are provided to the industry and whether SGL has appropriate management controls in place to evaluate and measure those services. We gathered criteria and best management practices from various sources to analyze and evaluate SGL operations and outcomes. Chapter IV discusses our findings.

## Chapter IV – Management Controls at SGL

### **Introduction**

Management controls are the organization, policies, and procedures used by an operation to reasonably ensure the following:

- ♦ Programs achieve intended results.
- ♦ Resources are used consistent with agency mission.
- ♦ Programs and resources are protected from waste, fraud, and mismanagement.
- ♦ Laws and regulations are followed.
- ♦ Reliable and timely information is obtained, maintained, reported, and used for decision-making purposes.

One of our audit objectives was to determine if the State Grain Laboratory (SGL) has effective management controls. Additionally, we attempted to gauge whether the grain industry is satisfied with SGL's services. The following sections discuss our survey of producers and our evaluation of SGL management controls.

### **Survey Work Identified the Majority of Producers Are Satisfied with SGL's Services**

To determine if SGL is providing efficient and effective service to the grain industry, we sent surveys to 859 producers around Montana and 25 percent responded. Survey questions afforded producers the opportunity to provide us with feedback about SGL and whether improvements could be made in its operations.

The majority of producers who responded to these questions were generally satisfied with SGL's services. Additionally, some producers provided examples of other services SGL could provide. Several of these identified improvements would be addressed through SGL's implementation of management controls discussed throughout this chapter.

### **SGL and the Department of Agriculture Should Formalize an Overall Strategic Plan**

A strategic plan can be defined as a "road map" to lead an organization from where it is now to where it would like to be in the long-term. In addition, a strategic plan helps clarify an organization's direction, ensures key leaders are all "on the same page," and increases productivity for enhanced efficiency and effectiveness. SGL currently has experienced staff who understand SGL's operations, policies, and procedures. However, significant turnover is expected in the next few years. The next two sections illustrate

areas where SGL and department officials have resource challenges and are subsequently candidates for incorporation into a strategic plan.

- ♦ Currently, the lab has six full-time employees, which as noted is down from 13 in fiscal year 1995, due to decreased revenues. While neither SGL nor department officials have formally established the minimum number of employees needed to establish and maintain a “stable” workforce, it seems evident one does not presently exist. For example, SGL on occasion is requested to gather grain samples from railroad cars. However, depending on workload, there are certain times of the year inspectors are also needed at the lab. To address these requests, the Bureau Chief must go sample the rail cars because no other personnel are available. If SGL had employees whose primary responsibility included sampling trains, efficiency could potentially be increased.
- ♦ During July, August, and September (harvest season), SGL can get back-logged due to the volume of samples received. As a consequence of the backlog resulting from limited inspection staff, it can take up to a week for producers and/or elevator operators to receive test results. To place the significance of a one-week wait into context, on July 31, 2006, the Pacific Northwest market price for hard red winter wheat with 10 percent protein was \$5.28 per bushel; a week later on August 7, 2006, the market price was \$5.18 per bushel. On a 100 acre field with a yield of 30 bushels per acre, the differences in market price is \$300. Timeliness of test results is critical both to the producer and SGL’s credibility, so it is important to sustain a workforce that can adequately address the lab’s workload.

---

### **CONCLUSION**

#### ***Development of a strategic plan could assist SGL in long-term planning.***

*By developing a comprehensive strategic plan, SGL will be better able to plan for the future and address issues such as upcoming retirements.*

---

## **Additional Management Controls are Needed**

SGL also needs to incorporate other fundamental management controls into its operations. Some of the missing management control components include:

- ♦ Formal maintenance or replacement schedules for equipment.
- ♦ An overall capital improvement schedule.
- ♦ Approved comprehensive policies and procedures.
- ♦ An enhanced automated billing and recording system.
- ♦ Staffing controls, such as performance appraisals and training plans.
- ♦ Comprehensive management information.

The value of these controls are discussed in detail in the following sections.

## **Schedules are needed for Equipment and Capital Improvements**

SGL currently does not have formal maintenance and replacement schedules for laboratory or other equipment, making it difficult to recognize and budget for these improvements. In recent years, when SGL needed equipment, they applied for a Montana Wheat and Barley Committee (MWBC) grant or used intra-agency grant funds. By having maintenance and replacement schedules, SGL could better plan for equipment purchases or scheduled maintenance and potentially set aside at least a portion of revenues for equipment maintenance and replacement.

In addition, SGL does not have a capital improvement schedule for the laboratory itself. SGL's building was constructed in 1935 and may need significant improvements in upcoming years. For example, the Bureau Chief noted they are looking at replacing the building sprinkler system, which would cost approximately \$45,000. The Architecture and Engineering Division, Department of Administration, stated the department could request an inspection of the entire facility to assure employee safety. If SGL had this inspection, they could then better plan for improvements needed in the future. In the past ten years, the department submitted two requests for funds from the Long Range Building Program for SGL to re-roof the facility and address the Americans with Disabilities Act.

## **SGL is Implementing Policies and Procedures Through a Quality Management System**

Currently, outside of federal regulations, limited policies and procedures exist at SGL. SGL staff are presently working on a quality management system (QMS) manual including policies and procedures. The manual discusses management responsibility, resource management, service delivery, measurement, analysis, and improvement.

Review of the manual suggests SGL is just getting started with QMS. However, interviews with SGL staff indicate they can see how the above areas will enhance SGL's operations, and would especially be beneficial for new personnel. SGL staff expects the manual to be finalized by April 2008.

## **SGL Could Improve Services by Implementing an Efficient and Secure Billing and Recording System**

Currently SGL is using an automated billing and recording system developed within the department. However, SGL administrative staff must enter data twice; once for certificates provided to the customer and FGIS, and again for billing the customer for inspection services. During our review, SGL staff "walked us through" their billing

and recording procedures. We noted the extent of time and effort associated with the duplicative process of certificate issuance and billing. Also, the current system has limited controls to prevent data from being altered or deleted. Potentially, the amount billed to a customer could be altered or deleted altogether, with virtually no audit trail existing of a transaction. The current system of billing and recording appears to be inefficient and lacks controls to assure accurate and complete outcomes. According to best management practices, data management is increasingly important. A reliable, secure system that provides needed information in a timely manner is indispensable.

### **SGL Accurately Bills Producers and Elevator Operators, but Timeliness Cannot be Determined**

While generally reviewing SGL's automated system, we also examined SGL's billing and recording processes for accuracy and timeliness. When producers and elevator operators receive their monthly bills, they generally pay by check. To determine accuracy and timeliness of billing and recording, we compared test result tickets, certificates, and billing statements. We did not identify any errors with billing and recording accuracy.

However, we could not specifically determine the timeliness of SGL's grain inspection efforts because dates related to when the sample was submitted to SGL and how long it took SGL employees to grade the sample could not be identified. The only dates we could review were the date on the certificate (usually the same date as the test result tickets) and the billing statement date (bills were generally sent out once a month). These dates did not provide a comprehensive understanding of SGL's timeliness of sample inspections.

### **Specific Grain Lab Software is being Considered by SGL**

The Federal Grain Inspection Service (FGIS) is in the process of implementing a program called FGIS Online; it is a portfolio of online business applications. FGIS anticipates this service will improve internal business operations and better serve customers of official grain inspection and weighing services. Other states are using grain lab software such as AgTrax, Grain Inspection Program, etc. These programs allow the labs to automatically generate bills for producers or elevator operators once certificate information is input.

SGL is currently working towards purchasing a new software program and prefers the AgTrax program, which would cost approximately \$5,000 for initial installation and training and \$590 per month thereafter. However, they do not have a specific timeline for implementation and its installation will depend on the amount of financial assistance they receive from the Montana Wheat and Barley Committee for fiscal year 2008-09.



## **New Software Would Aid SGL in Providing Inspection Results to its Customers**

When reviewing survey work, one example of additional services survey respondents requested is online test results. In addition, during interviews, some producers and elevator operators stated online inspection results would be beneficial. Whether FGIS Online or another type of grain lab software is purchased, SGL would be able to electronically enter inspection and weighing results, and produce electronic certificates for producers and elevator operators, which would feed into the new FGIS Inspection Data Warehouse, which is an online database. Customers of SGL would then be able to go online and see individual test results immediately after SGL staff enters test results into the system.

---

### **CONCLUSION**

***Implementing a more efficient and secure billing and recording system would benefit SGL.***

*By implementing a reliable and secure billing and recording system specifically designed for a grain lab, SGL would be better able to monitor sample processing, provide customers online services, and conduct billing procedures more efficiently.*

---

## **SGL Needs to Implement Staffing Controls**

A significant management control, especially in an environment where individual performance is critical, is staffing controls such as performance appraisals, training, and plans to address employee turnover. Currently, SGL employees do not receive formal performance appraisals. Best management practices encourage implementing a clear, fair, and systematic employee performance appraisal program to manage individual employee performance. Additionally, SGL does not have a formalized plan for providing continuing education for its employees, nor does it have formal plans in place to provide a seamless level of customer service when there is employee turnover.

Based on interviews, other states' grain labs complete performance appraisals for employees. In Wisconsin, one appraisal is completed at ninety days and another at one year; both are written appraisals. North Carolina's State Grain Lab has performance appraisals at the beginning and end of the year. At the first meeting, the manager discusses with the employee where they are with their training, where the manager needs them to be, what is expected in the future, and what licenses they need to obtain during the year. At the end of the year and in successive years, employees are reevaluated.



In addition to needing to incorporate performance appraisals, appropriate staffing controls need to be established for employee training needs. For example, FGIS is currently working towards an online licensing program so official labs can use Internet-based study materials and examinations. If SGL were to use this program, it should be incorporated in a formal training plan. As part of the training plan, SGL should also establish contingency procedures to address the impacts of employee retirements and turnover.

---

**CONCLUSION**

***Staffing controls could assist SGL with productivity and provide transition plans for retirements and staff turnover.***

*At this time, SGL has not implemented staffing controls, such as formal performance appraisals. Since SGL expects significant staff turnover, due to retirements in the next several years, now would appear to be an appropriate time to establish a performance appraisal process and create plans to train and sustain SGL's primary asset, its employees.*

---

## **Evaluating Management Information for Decision-Making Purposes**

Once clear missions, desired outcomes, and measures such as performance appraisals exist to gauge progress, an operation should use this information as a basis for decision-making. SGL currently collects and reports limited management information to the Department of Agriculture. The department receives information on amount of staff overtime and number of samples completed, and a monthly report including accounting information. Additionally, information is provided to MWBC related to number of samples, quality of grain, and protein data.

The American Society of Public Administration (ASPA) defines performance measurement as “a method of measuring the progress of a public program or activity in achieving the results or outcomes that clients, customers, or stakeholders expect.” Performance measures also show where programs are strong and where improvements are necessary. With enhanced information related to the various aspects of the inspection process, SGL and department management could better determine if efficiency and/or effectiveness could be enhanced by upgrading laboratory equipment or providing new services to producers and elevator operators.

---

### **OVERALL CONCLUSION**

#### **Additional management and staffing controls are needed.**

*Based on observations and interviews, until recently, it appears SGL has focused on basic operations, such as meeting the demand for services. However, due to competition, the number of samples decreasing, anticipated turnover of highly experienced personnel, and financial difficulties, management controls, including staffing safeguards, could enhance SGL effectiveness and efficiency.*

---

---

### **RECOMMENDATION #2**

*We recommend the Department of Agriculture implement comprehensive management controls at the State Grain Lab including:*

- ♦ *A strategic plan (including detailed goals and targeted objectives).*
  - ♦ *Equipment and capital improvement schedules.*
  - ♦ *Written policies and procedures.*
  - ♦ *A reliable, secure, automated system providing specific grain lab information.*
  - ♦ *Staffing controls.*
  - ♦ *Management information to better assess how well the State Grain Lab delivers its services.*
- 

The next chapter addresses statute related to SGL's schedule of fees and elevator operator requirements.



## Chapter V – Statutory Mandates for Elevator Operators

### **Introduction**

While addressing audit objectives, an issue was identified related to statutory provisions directed at elevator operators. This chapter presents information and a recommendation related to these provisions.

### **Statute Related to Elevator Operator Compliance**

During the 2003 Legislative Session, a bill passed to revise commodity sampling and testing laws. Some of the changes were incorporated in section 80-4-711, MCA, which mandates requirements for elevator operators including:

- ♦ A written agreement must be given to producers authorizing them to state a preference of grading facility. The options provided for grading facilities in the agreement must include but may not be limited to the State Grain Laboratory (SGL). The written agreement must also specify the time period to which the agreement applies (e.g. annual, monthly, etc.).
- ♦ Each elevator operator post in a conspicuous place a placard, issued by the department, stating the procedures provided for in this statute and listing SGL sampling and inspection fees. The department must provide space on the placard on which the elevator operators are required to list their anticipated shipping and handling fees for obtaining test results and/or other charges associated with moving grain from the elevator to another destination.

### **Statute Requirements Are Not Being Formally Enforced**

During initial visits to elevators, we noted some elevator operators were not complying with the above statutory mandates. When we subsequently interviewed department officials in relation to enforcement, we determined neither the department nor SGL has formalized enforcement or monitoring in relation to these particular statutes. We further determined additional examination of statutory compliance and the role of SGL in enforcement was necessary.

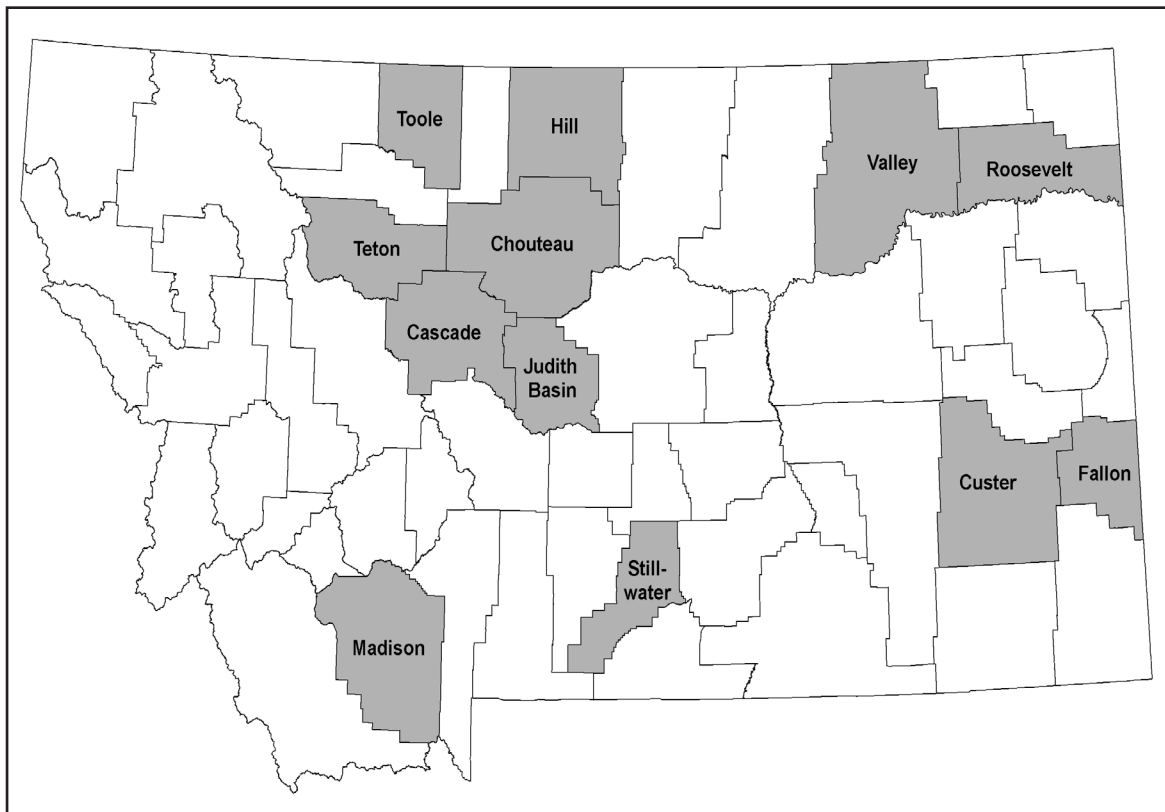
When reviewing statute we identified enforcement language incorporated in sections 80-4-701, MCA, and 80-4-421, MCA. Section 80-4-701(1), MCA, allows the Department of Agriculture to hire inspectors, samplers, and weighers to enforce statutes. In addition, section 80-4-421(1), MCA, states the department may revoke, suspend, or modify an elevator operator's license when it has violated, failed, or refused to comply with stated provisions.

Up to this point, SGL's Bureau Chief has limited monitoring efforts to elevator operator outreach, in an effort to raise elevator operators' awareness of statutes, and by supplying placards for elevator operators to display. However, while this educational effort is ongoing, we still found elevator operators not complying with the noted statutes.

### **Additional Auditor Visits to Elevators Determined Continued Elevator Operator Noncompliance**

To determine whether elevator operators were complying with these statutes, we visited 18 elevators around the state. The following map shows counties in which we traveled to conduct grain elevator visits.

**Figure 2**  
**Grain Elevator Visits**



Source: Compiled by the Legislative Audit Division.

While visiting these elevators we observed whether the elevator operator had a placard of SGL's fees posted, whether it was the current schedule, if shipping and handling costs

were listed on the placard, and if the elevator operator had written agreements on file giving the producer the option to identify a lab preference.

Of the 18 elevators reviewed, only 50 percent had a current SGL placard posted. In addition, only five of the elevator operators who had a current SGL placard posted, listed shipping and handling fees. These five elevator operators also had written agreements with producers. This meant only 28 percent of the elevator operators reviewed were complying with the applicable statutes.

As noted, the SGL Bureau Chief recently began visiting elevators in part to determine if operators had received and posted the placard which included the new SGL fee schedule. We found some elevator operators the Bureau Chief had visited were still not complying with the posting of the placard when subsequently examined by our staff.

### **Survey Work Also Suggests Noncompliance**

During our survey work of producers, when asked whether their elevator operator offered them a choice on where grain lab samples were sent,

- ♦ 54 checked they were not required to select a lab.
- ♦ 28 identified their choice on a form on file at the elevator.
- ♦ 29 identified their choice on each individual contract.
- ♦ 25 identified their choice verbally.
- ♦ 13 gave some other reason including, but not limited to, elevator operator uses SGL, elevator operator uses the private sector lab, and elevator operator uses their own testing system.

In summary, approximately 35 percent of survey respondents had some type of written agreement stating where they wanted their samples sent.

We also asked producers if elevator operators had the July 2006 SGL fee schedule posted in the elevator they use and if producers were aware of operators' charges for shipping and handling of grain and/or test results. Only 14 percent of respondents stated a fee schedule was posted, 80 percent were unsure, and 6 percent stated a schedule was not posted. In addition, it was clear in our survey, producers did not have a good understanding of what elevator operators charged for shipping and handling (which, by statute, the elevator operator must write on the bottom of the placard). The potential impact of elevator operators' noncompliance is producers may not have a clear understanding of their right to have the lab of their choice inspect and grade their agricultural commodities. In addition, producers may not be aware of, or be able to question costs associated with sample inspections or shipping and handling of grain products overall.

## **Overall Conclusion Regarding Statute Enforcement**

Through our survey work and visits to elevators, it is apparent elevator operators are not complying with statutes related to posting placards, identifying shipping and handling charges, and providing written agreements for producers. We were unable to determine whether noncompliance is intentional or results from a lack of awareness of the statutory mandate. Discussions with Department of Agriculture officials revealed there has not been a coordinated effort between various programs within the department to enforce noted statutes. SGL employees primary focus when visiting elevators is the collection of grain samples, while other department employees who may visit elevators also have priorities other than enforcement of these particular mandates.

---

### **RECOMMENDATION #3**

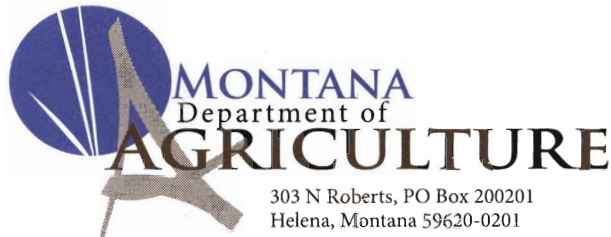
*We recommend the Department of Agriculture increase enforcement and monitoring of compliance with section 80-4-711, MCA.*

---

DEPARTMENT OF  
AGRICULTURE

DEPARTMENT RESPONSE





Brian Schweitzer  
Governor

Ron de Yong  
Director

406.444-3144 • Fax: 406.444.5409 • agr@mt.gov • www.agr.mt.gov

January 11, 2008

RECEIVED

JAN 11 2008

LEGISLATIVE AUDIT DIV.

Tori Hunthausen  
Chief Deputy Legislative Auditor  
Legislative Audit Division  
State Capitol Bldg  
Helena MT 59620-1705

Dear Mrs. Hunthausen:

I would like to thank you and your staff for the courteous and professional manner in which the performance audit of the State Grain Laboratory within the Department of Agriculture was conducted. The results of the audit, as well as suggestions offered, will be used to improve our operations and maintain the viability of the State Grain Lab. Listed below are the department's responses to the audit recommendations presented in your audit report.

**Recommendation #1**

We recommend the Department of Agriculture seek legislation to establish additional or alternative funding sources for the State Grain Lab to maintain its viability.

**Response:**

We concur. The department will seek to implement an appropriate combination of remedies regarding issues identified throughout the performance report including considering administrative, enforcement, fee, or funding stream changes.

**Recommendation #2**

We recommend the Department of Agriculture implement comprehensive management controls at the State Grain Lab including:

- ♦ A comprehensive strategic plan (including detailed goals and targeted objectives);
- ♦ Equipment and capital improvement schedules;
- ♦ Written policies and procedures;

Tori Hunthausen  
Page 2  
January 11, 2008

- ♦ A reliable, secure, automated system that provides grain lab specific information;
- ♦ Staffing controls; and
- ♦ Management information to better assess how well the State Grain Lab delivers its services.

Response:

We concur.

- ♦ The department has a business development plan in place and will complete a strategic plan to address these audit recommendations and detail agency expectations by the end of fiscal year 2008. A steady source of funding will allow the State Grain Lab to provide for workforce planning and ongoing training. Our inspectors are highly trained with five or more grain certifications and some are nearing retirement. To continue to be responsive to our customers, we must implement an ongoing training program to develop new inspectors and maintain mandated certifications;
- ♦ We will develop formal maintenance or replacement schedules for the laboratory and specialized laboratory equipment and incorporate them into the executive budget process;
- ♦ We are requesting an inspection of the entire facility by the Architecture and Engineering Division to assure employee safety;
- ♦ Our quality management system manual which includes written policies and procedures will be finalized by the end of fiscal year 2008;
- ♦ We are finalizing a contract with AgTrax for a reliable, secure, automated computer system to meet Federal Grain Inspection Service (FGIS) standards and customers needs; and
- ♦ New competency based performance appraisals have been approved by the union and will be implemented effective February 1, 2008.

**Recommendation #3**

We recommend the Department of Agriculture increase enforcement and monitoring for noncompliance of section 80-4-711, MCA.

Response:

We concur. In accordance with 80-4-711, MCA, the department will aggressively educate and coordinate efforts to ensure elevator operators are providing the producers

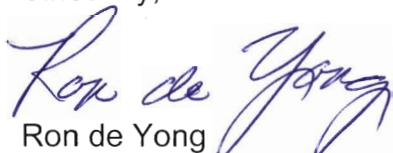
Tori Hunthausen  
Page 3  
January 11, 2008

with written agreements which specify the State Grain Lab as a grading facility, and that they are posting the mandated State Grain Lab placards.

Failure to comply currently results in a system of warning letters and the potential for the loss of license under gross, intentional noncompliance. The code provides the department with two options: revoking, suspending, or modifying the elevator's license (80-4-421, MCA) and/or filing criminal misdemeanor charges (80-4-429, MCA) through the county attorney. Seeking a legislative change to supplement the code to establish a low level civil penalty enforceable by the department in the event of noncompliance, would better meet the needs of our producers and would also provide a source of revenue to the State Grain Lab.

I would like to thank the Legislative Audit Committee for requesting a performance audit of the State Grain Laboratory. We truly believe that the services provided by the State Grain Laboratory protect, enhance, and develop agriculture and the public as a whole. Agriculture is the number one industry in Montana. The State Grain Laboratory with a reliable funding source will continue to provide future generations of Montanans with accurate, cost effective, and timely services.

Sincerely,

A handwritten signature in blue ink that reads "Ron de Yong". The signature is stylized with a large, flowing "R" and "Y".

Ron de Yong  
Director

c: Kathy Seacat